



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

**5 Post Office Square, Suite 100
Boston, MA 02109-3912**

SEP 14 2011

**URGENT LEGAL MATTER
REQUIRES PROMPT RESPONSE**

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Bruce H. Doughty, C.E.O. and President
Washburn & Doughty Associates, Inc.
7 Enterprise Street
East Boothbay, ME 04544

Re: Clean Air Act Reporting Requirement & Notice of Violation

Dear Mr. Doughty:

The United States Environmental Protection Agency ("EPA") is evaluating whether the operations of Washburn & Doughty Associates, Inc. at 7 Enterprise Street in East Boothbay, Maine ("Washburn & Doughty") are in compliance with the Clean Air Act ("CAA" or "Act") and requirements promulgated under the Act, including but not limited to the Maine State Implementation Plan ("SIP"), which includes federally-approved portions of Maine Air Pollution Control Regulations, and the federal National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair (the "Shipbuilding NESHAP") promulgated at 40 CFR Part 63, Subpart II.

Enclosed with this letter is a Notice of Violation citing Washburn & Doughty's failure to obtain and operate in accordance with an air emission license for the 7 Enterprise Street facility. EPA is further investigating whether Washburn & Doughty is a major source of air pollutants based on its potential to emit volatile organic compounds and/or hazardous air pollutant, requiring licenses under Maine's Air Pollution Control Regulation Chapter 115, Major and Minor Source Air Emission License Regulations, and Chapter 140, Part 70 Air Emission License Regulations.

Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1), gives EPA the authority to require any person who owns or operates any emission source to establish and maintain records, make reports, sample emissions, and provide such other information as may reasonably be required to enable EPA to determine whether such person is in compliance with the Act and its implementing regulations, including the Maine SIP and the Shipbuilding NESHAP.

This Reporting Requirement requires Washburn & Doughty to provide the information listed in each numbered paragraph below within sixty (60) days of receipt of this letter. The term "coating" as used here refers to paints and other materials such as paint thinners, cleaners,

solvents, fairing compounds, and adhesives used on vessels. The term "resin" as used here refers to the materials used in the thermosetting resin process including but not limited to gel coat, skin coat, resin, hardener, filler, promoter, catalyst, and cleaning solvent used to construct vessels and components of vessels. If Washburn & Doughty does not possess some or all of the records or documents that respond to a specific request below, Washburn & Doughty shall state in writing that the records or documents do not exist, and explain why.

1. Provide the following information about Washburn & Doughty:
 - a. Describe the ownership and business structure;
 - b. Indicate the date and state of incorporation;
 - c. List any partners or corporate officers;
 - d. List any parent, divisions and subsidiary corporations and any related business entities; and
 - e. Provide the net worth of the Washburn & Doughty (if not available, provide gross annual receipts from 2007-10).
2. Provide the following information for the facility at 7 Enterprise Street, East Boothbay, Maine (hereafter referred to as the "Facility"):
 - a. The physical address;
 - b. The date that the Facility began operations;
 - c. The name and phone number of the plant manager;
 - d. The number of employees ;
 - e. The size in acres of the property;
 - f. The frontage on a navigable waterway, in feet; and
 - g. The name, address, and the date that operations began of any other facilities owned and/or operated by any of the corporate entities identified in 1.d above.
3. If Washburn & Doughty purchased or acquired its business, equipment, or operations from another company that previously conducted similar work at the Facility:
 - a. Provide the name of the company, a description of that company's operations, the dates that the previous company operated at the Facility; and
 - b. Describe how Washburn & Doughty came to acquire that company's business, equipment, or operations.
4. Provide the following information for the Facility:
 - a. A scaled diagram showing all the major features, including but not limited to the buildings, water frontage, and launches;
 - b. A description of each building and structure by its purpose and use, including but not limited to, any manufacturing areas, dry docks, spray booths, and painting areas;
 - c. The size and weight capacity for any ship/barge/boat launches or lifts;
 - d. The date that actual construction began on each building or other structure;
 - e. A description of the activities that are conducted within each building or other structure, including, but not limited to, vacuum molding and surface coating operations;

- f. A description and the specific location of all activities, including but not limited to, surface coating operations, that are conducted outside of any building; and
 - g. A description of any heating, ventilation, air conditioning system, and any type of air pollution control system employed, e.g., particulate or overspray filters.
5. For each ship, barge, buoy, boat or other vessel (referred to below collectively as "Vessels") serviced, built, constructed, and/or repaired by Washburn & Doughty at the Facility from January 2006 to the present, provide the following information:
- a. The name of the Vessel;
 - b. The type of Vessel (military, pleasure craft, commercial, etc.);
 - c. The primary material of the Vessel (wood, metal, fiberglass, etc.);
 - d. The basic dimensions of the Vessel (length, width, and depth in feet);
 - e. The approximate surface area of the hull and topside of the Vessel, if applicable (in square feet);
 - f. The year and month construction began and ended;
 - g. The type of work conducted on the Vessel (construction, repair, cleaning, etc.);
 - h. The type of coating used on the Vessel, if applicable (see the categories specified in 40 CFR Part 63, Subpart II, Table 2); and
 - i. The approximate Vessel surface area that was coated, if applicable.

To provide your response, please use the enclosed blank spreadsheet labeled "Vessels" (also enclosed on a disc) or an equivalent spreadsheet format.

6. For each coating or resin that Washburn & Doughty has purchased for the Facility from January 2006 to the present, provide the following information:
- a. The name of the coating or resin;
 - b. The type of the coating or resin (paint, thinner, cleaner, latex, solvent, acrylic, hardener, sealing and release agents, mold stripping agents, etc. – see the categories specified in 40 CFR Part 63, Subpart II, Table 2, where applicable)
 - c. Indicate if the coating contains nickel, cadmium, lead, manganese, chrome, and/or methylene chloride;
 - d. The total Volatile Organic Compound ("VOC" as defined in the ME SIP) content of the coating in lbs VOC per gallon of coating. The VOC content must come from the manufacturer of the coating. If the manufacturer provides a range, use the upper bound of the range;
 - e. The total Hazardous Air Pollutant ("HAP", as defined in section 112 of the Clean Air Act) content of the coating in lbs HAP per gallon of coating. The HAP content must come from the manufacturer of the coating. If the manufacturer provides a range, use the upper bound of the range;
 - f. The coating density in pounds of coating per gallon of coating; and
 - g. The annual amount of coating/resin purchased each year from 2006 through 2010 (in gallons).

To provide your response, please use the enclosed blank spreadsheet labeled "Coatings - As Purchased" (also enclosed on a disc) or an equivalent spreadsheet format.

7. For each coating applied at the Facility from January 2006 to the present, provide the following information:
 - a. The name of each coating applied;
 - b. Name of the vessel that the coating was applied to if known;
 - c. The as-applied VOC content of each coating by taking into account any and all additives and thinners added to the as-purchased coatings;
 - d. The as-applied HAP content of each coating by taking into account any and all additives and thinners added to the as-purchased coatings; and
 - e. The coating density in pounds of coating per gallon of coating; and
 - f. The annual amount of each coating as applied (in gallons).To provide your response, please use the enclosed blank spreadsheet labeled "Coatings - As Applied" (also enclosed on a disc) or an equivalent spreadsheet format.
8. Provide the pounds of VOCs emitted annually from the Facility for each year from 2006 through 2010.
9. Provide the pounds of HAPs emitted annually from the Facility for each year from 2006 through 2010.
10. Provide copies of all logs, invoices, purchase orders, or receipts relating to shipments of each coating, paint, thinner, and solvent used at the Facility from 2006 through 2010.
11. Identify the highest or peak pounds of VOCs emitted from the Facility from January 2006 to the present during any one day from:
 - a. The coating of wood substrates;
 - b. The coating of fiberglass substrates;
 - c. The coating of metal substrates; and
 - d. All coating at the Facility.
12. For the Facility, from January 2006 to the present, estimate the maximum hours per day, days per week, and weeks per year Washburn & Doughty painted and coated hulls, decks, and components of Vessels and other items. In addition:
 - a. Explain the reasons for the current painting schedule; and
 - b. Explain any factors that would prevent Washburn & Doughty from painting 24 hours/day, 7 days/week, 52 weeks/year.
13. Describe the methods by which coatings are applied at the Facility, including the methods that each paint and other coating is applied (e.g., brush, roller, spray gun) by type of part and product produced. For each method, also provide an explanation as to why different methods are used in different circumstances
14. List the spray guns at the Facility. For each individual spray gun, provide the following information:
 - a. The manufacturer;
 - b. The model number;

- c. The nozzles used;
- d. The actual operating pressure range by nozzle used (in pounds per square inch);
- e. The maximum flow rate (in gallons per hour); and
- f. The month and year of acquisition or purchase.

To provide your response, please use the enclosed blank spreadsheet labeled "Spray Guns" (also enclosed on a disc) or an equivalent spreadsheet format.

15. For each temporary or permanent spray booth at the Facility from January 2006 to the present, provide the following information:

- a. The name/identifier and location of the spray booth;
- b. The date that actual construction began on the spray booth;
- c. The date that actual construction was completed on the spray booth;
- d. The date that any surface coating operations began in the spray booth;
- e. A description of any air pollution control equipment ;
- f. A description of any best management practices utilized to limit air pollution from the spray booth; and
- g. Any and all documents related to the purchase and/or construction of the spray booth, including, but not limited to, contracts, invoices purchase orders, etc.

To provide your response, please use the enclosed blank spreadsheet labeled "Spray Booths" (also enclosed on a disc) or an equivalent spreadsheet format.

16. Describe, if applicable, any and all grinding and sandblasting activities at the Facility.

- a. Include in the description the locations of such activities, and any measures Washburn & Doughty takes to minimize or control the emissions of particulates or other pollutants to the ambient air from such activities; and
- b. Include the type of equipment used to grind or sandblast, including the grit size and capacity of the equipment (e.g., pounds per hour).

17. Provide copies of all correspondence Washburn & Doughty (or any of its predecessors) has had with state and/or federal environmental agencies from January 2006 to the present regarding emissions of air pollutants at the Facility, including, but not limited to, copies of:

- a. All license applications;
- b. All licenses issued; and
- c. Any requests for license modifications.

Submissions required by this letter shall be mailed to:

Susan Studlien, Director
 Office of Environmental Stewardship
 US Environmental Protection Agency, New England
 5 Post Office Square, Suite 100
 Boston, Massachusetts 02109
 Attn: Steven Calder (OES 04-2)

Be aware that if Washburn & Doughty does not provide the information in a timely manner, EPA may order it to comply and may assess monetary penalties under Section 113 of the Clean Air Act. Federal law also establishes criminal penalties for providing false information to EPA. This letter is not subject to Office of Management and Budget review pursuant to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

You may assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 CFR § 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2, Subpart B. Note that certain categories of information, such as emission data, are not properly the subject of such a claim. If no such claim accompanies the information when EPA receives it, EPA may make the information available to the public without further notice to you.

If you have any questions regarding this Reporting Requirement, please contact Environmental Engineer, Steven Calder, at (617) 918-1744, or have your attorney call Senior Enforcement Counsel Thomas T. Olivier, at (617) 918-1737.

Sincerely,



Susan Studlien, Director
Office of Environmental Stewardship

cc: Louis Fontaine, ME DEP
Kurt Tidd, ME DEP
Melanie Loyzim, ME DEP

enc: Notice of Violation, spreadsheets and disc

Note: Need Separate Spreadsheet for Each Facility

[illegible]

Note: Need Separate Spreadsheet for Each Facility

Facility Address

Note: Use VOC and HAP content from manufacturer - if given range, use upper bound

Note: For type of coating, see the categories specified in 40 CFR Part 63, Subpart II, Table 2, where applicable

Coatings - As Purchased

[illegible]

Note: Need Separate Spreadsheet for Each Facility

Note: Use VOC and HAP content from manufacturer - if given range, use upper bound

Note: "as applied" coatings accounts for any and all additives and thinners added to the "as-purchased" coatings

2006	2007	2008	2009	2010
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[illegible]

Note: Need Separate Spreadsheet for Each Facility

Note: Indicate if more than one nozzle is used

Spray Guns

[illegible]

Note: Need Separate Spreadsheet for Each Facility

[illegible]

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I – NEW ENGLAND**

IN THE MATTER OF

Washburn & Doughty Associates, Inc.
7 Enterprise Street
East Boothbay, Maine 04544

Proceeding under Sections
113 of the Clean Air Act

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NOTICE OF VIOLATION

I. STATUTORY AUTHORITY

1. The United States Environmental Protection Agency Region I (“EPA”) issues this Notice of Violation (“NOV”) to Washburn & Doughty Associates, Inc. (“Washburn & Doughty”), for violations of the Maine State Implementation Plan (“SIP”) at its facility in East Boothbay, Maine.
2. EPA has designated ozone as an ambient air pollutant, and has developed a national ambient air quality standard (“NAAQS”) for ozone. See 40 C.F.R. § 50.9. Ozone, a main ingredient in urban smog, forms when volatile organic compounds (“VOCs”) react with oxides of nitrogen in the presence of sunlight. Therefore, in order to control ozone formation, EPA and the states have generally sought to control VOC emissions.
3. Section 110(a) of the Clean Air Act (“Act” or “CAA”), 42 U.S.C. § 7410(a), requires each state to prepare a SIP incorporating regulations designed to attain and maintain healthy air quality. A state must submit its SIP and any SIP revisions to EPA for approval. Once EPA has approved a SIP, the federal government may enforce the SIP’s requirements and prohibitions pursuant to Sections 113(a) and (b) of the CAA,

42 U.S.C. §§ 7413(a) and (b).

4. Maine has been in nonattainment with the ozone NAAQS since the 1980s.

Consequently, the ME SIP contains various nonattainment New Source Review (“NSR”) provisions as required by Sections 172 and 173 of the CAA, 42 U.S.C. §§ 7502 and 7503.

5. The State of Maine has adopted a SIP within the meaning of Section 113(a)(1) of the Act. The SIP, which has been approved by EPA under Section 110 of the Act, 42 U.S.C. § 7410, contains various federally-approved portions of the Maine Air Pollution Control Regulations, 06-096 CMR Chapters 100 et al. (“ME APC Regulations”). The SIP can be accessed at http://www.epa.gov/region1/topics/air/sips/sips_me.html.
6. The NOV is issued under the authority of Section 113 of the Act, 42 U.S.C. § 7413. Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), requires that whenever EPA finds that any person has violated or is in violation of any requirement or prohibition of an applicable SIP, EPA shall notify the person of such finding.

II. FACTUAL BACKGROUND INFORMATION

7. Washburn & Doughty constructs, and has the ability to repair, steel and aluminum commercial vessels, including tugboats, research vessels, and ferries at its 7 Enterprise Street facility (“Facility”).
8. Washburn & Doughty purchased the Facility in 1984.
9. In July 2008, a fire destroyed the main production building at the Facility. Washburn & Doughty built and occupied a new production building in July 2009.
10. On December 16, 2010, an EPA inspector performed an inspection at the Facility.

11. In the process of constructing or repairing vessels at the facility, Washburn & Doughty applies materials to the surfaces of vessels, including paints, solvent thinners, and fairing compounds (collectively referred to herein as “coatings”) VOCs and hazardous air pollutants (“HAPs”).
12. Washburn & Doughty uses paint sprayers (e.g., “spray guns”) and other means to apply coatings to the hull and decks of the commercial vessels.

III. LEGAL FINDINGS

13. Under the SIP at ME APC Regulation Chapter 115, Major and Minor Source Air Emission License Regulations (“Chapter 115”), § II.A, no person may emit any air contaminant from any source without an air emission license unless the source is exempt under Chapter 115, § II.C. (The parallel citation in the Maine APC Regulations is Chapter 115, § 1.B.)
14. Chapter 115 requires an air emission license for any new “major source,” and any new “minor source,” unless specifically exempted.
15. ME APC Regulation Chapter 100, Definitions Regulation (“Chapter 100”), defines the term “major source” as any source which is defined as a Part 70 source that has not been issued a Part 70 license pursuant to ME APC Chapter 140 and which emits or has the potential to emit any regulated pollutant at a rate equal to or greater than the emission rates for “significant emissions,” defined as any rate of emissions that would equal or exceed 100 tons per year of any regulated pollutant or 50 tons per year of VOC in the ozone transport region, including fugitive emissions.

16. Chapter 100 defines “minor source” as any source which emits or has the potential to emit regulated pollutants at rates less than significant emissions and is not defined as a Part 70 source.
17. According to the SIP at Chapter 115, § II.C.3, a source or emissions unit is exempt from license requirements if the general process source emissions, without consideration of air pollution control apparatus and under normal operation, are less than 100 lb/day or 10 lb/hr of any regulated pollutant. (The parallel citation in the Maine APC Regulations is Chapter 115, § 1.C(2)(d).)
18. At the time of the inspection, Washburn & Doughty used four paint spray guns at the Facility, including three Graco airless spray guns and one DeVilbliss hand-held conventional sprayer.
19. Based upon the Facility’s use of spray guns and other means to apply VOC-containing coatings, the Facility’s emissions, without consideration of air pollution control apparatus and under normal operation, have exceeded 100 pounds per day or 10 pounds per hour of VOCs from its painting and plastic resin operations.
20. The Facility is and has been either a major source or a minor source, that emits air contaminants, and that requires an emission license under Chapter 115.
21. Prior to June 21, 2011, the Facility did not have a Chapter 115 emission license.

NOTICE OF VIOLATION

22. Prior to June 21, 2011, Washburn & Doughty emitted air contaminants from the Facility without having obtained an air emission license, in violation of Chapter 115 of the SIP and the Clean Air Act.

V. ENFORCEMENT

23. After the issuance of this NOV, EPA may take any or all of the following actions: issue a further order requiring compliance with the Act; issue an administrative penalty order for up to \$ 37,500 per day for each violation; or bring a civil judicial action seeking an injunction and civil penalties. See Sections 113(a), (b), and (d) of the Act, 42 U.S.C. §§ 7413(a), (b), and (d), 40 CFR Part 19 (increasing Clean Air Act judicial and administrative penalties from \$25,000 to \$37,500). Be advised that Section 113(e)(2) of the Act, 42 U.S.C. § 7413(e)(2), contains provisions that affect the burden of proof with respect to violations which continue following issuance of a notice of violation.
24. If Washburn & Doughty has knowingly violated the requirements of the Act, Washburn & Doughty and its responsible personnel may be subject to criminal penalties under Title 18 of the United States Code, imprisonment for not more than five years, or both. See Section 113(c) of the Act, 42 U.S.C. § 7413(c).
25. Be advised that issuance of this NOV does not preclude EPA from electing to pursue any other remedies or sanctions authorized by law which are available to address these violations. This NOV does not resolve Washburn & Doughty's liability for past violations of the Act or for any violations that continue from the date of this NOV up to the date of compliance.
26. If Washburn & Doughty has any questions regarding this NOV, please contact environmental engineer Steven Calder at (617)918-1744, or have your legal counsel contact Thomas T. Olivier, Senior Enforcement Counsel, at (617) 918-1737.
- Washburn & Doughty may request an opportunity to confer with EPA within 14 days

of issuance of this NOV by contacting Mr. Calder or Mr. Olivier at the phone numbers listed above.

Susan Studlien

Susan Studlien, Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region I – New England

09/13/11

Date